

REMARKS**Overview**

Claims 1-41 are pending in the present application. The present response is an earnest effort to place all claims in proper form for allowance. Reconsideration and passage to issuance is therefore respectfully requested.

Claim Rejections Under 35 U.S.C. § 101

Claims 16-20 and 35-41 stand rejected under 35 U.S.C. § 101. Applicant respectfully traverses the § 101 rejection for at least the reasons set forth in prior responses, which are incorporated by reference herein. In the most recent Office Action, the grounds for this § 101 rejection are (a) the claims are merely "non-functional descriptive material" and (b) the phrase "interactive learning system" is not deemed to "belong into any one of the four statutory category (process, machine, manufacture, or composition of matter). Office Action, p. 3, numbered paragraph 7.

Claim 16 includes other language which is submitted to obviate the § 101 rejection. For example, the first sub-paragraph in the body of the claim includes the limitations "digital media" and "an information processing device". These are concrete, useful, and tangible things that comport with the "interactive learning system" (*emphasis added*). Cooperation between the digital media and information processing device is set forth multiple times in the remainder of the claim. Thus, claim 16 does not contain merely non-functional descriptive material and it clearly falls within the statutory categories of machine. Each of claims 17-20 and 35-41 are dependent upon independent claim 16 and submitted to be statutory subject matter for the reasons expressed in support of claim 16.

Claim Rejections Under 35 U.S.C. § 102

Claims 1-4, 7-11, 14, 16, 19, 24, 31 and 36 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Massaro et al. ("Massaro", U.S. Patent No. 5,535,321). This rejection is respectfully traversed. Massaro has been carefully reviewed. It is respectfully submitted Massaro does not present a *prima facie* case of anticipation of Applicant's claims for at least the following reasons.

Massaro relates to a quite different concept from Applicant's claims. In particular, Massaro addresses the problem of having user interfaces in an application program that have to be programmed towards one level of skill relative to the application. Massaro states the problems it addresses:

"Often a designer must simply compromise and provide an interface which represents a less than optimal solution to both of these problems."

Massaro, col. 1, lines 23-26. The problems Massaro refers to are that the user interface "must be sufficiently simpler intuitive to permit relatively unskilled users to utilize complex software applications yet these user interfaces must be complete enough to allow skilled users to access the multitude of features which modern applications typically provide." Massaro, col. 1, lines 19-23.

Massaro is referring to the screen displays presented to a user that selects an application. One example given in Massaro is word processing. Massaro allegedly solves its stated problem in the art by allowing the user, or some other person, to pre-set the level of complexity of the user interface for different functions inside the computer application. Massaro Figure 2 gives examples of this pre-programming of levels. In the example of Massaro Figure 2, a user profile screen allows a default level for spreadsheet and reports/printer output functions of the word

processing application, but allows an advanced level for "data entry", and a basic level for "file manipulation". Massaro describes the intended benefit -- namely, a user having already acquired expert skill at one function would more efficiently use the program if the user interface presented at an "expert" level when that function was called. A user having beginner skills with the function would benefit by having a user interface at a beginner or basic level.

Massaro does contemplate situations where the user profile would not designate a specific level. It allows a "default" level. This would again, be preprogrammed.

Furthermore, Massaro contemplates the option of allowing a user to temporarily look at a different user interface level than what is programmed into the user profile. Massaro, col. 5, line 30-57. However, this "override" function (see also Massaro Figure 6) simply allows a temporary user selection of a different single user interface that would expire after that function is completed. The system reverts back to the user profile.

As can be seen, the solution of Massaro is to try to customize the user interface (the program that controls the display for the user and allows the user to interact with the system) on a function-by-function basis within a specific application that has multiple functions. An important point is that Massaro focuses on pre-programming the interface for each function or allows the program to use a default interface. Only one interface is presented at one time. This is true even when a user might use the override function.

A *prima facie* case of anticipation under § 102 requires each and every element, as set forth in the claim, to be expressly or inherently described in Massaro. *See, e.g. Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). Moreover, the elements of the claim must be arranged as required by the claim. *In re Bond*, 910 F.2d 831, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990).

Applicant's independent claim 1 differs from the disclosure of Massaro in at least the following ways.

First, Applicant's claim 1 relates to "providing instruction to a user of an instructional program". As discussed above, Massaro pertains to a specific application's program such as word processing, a spreadsheet function, etc. It is an application, not "an instructional program" as required in Applicant's claim 1. Thus, Massaro is missing a limitation of Applicant's claim 1. Note that the first paragraph of the body of Applicant's claim 1 specifies the instructional program includes "a plurality of sections each comprising instructional information related to a subject". Again, Massaro is an application, not an instructional program with information related to a subject.

Second, Applicant's claim 1 includes "additional instructional options related to the instructional information". As described in Applicant's specification, claim 1 provides learning assistance for the subject matter presented in the underlying "instructional program". For example, a government employee trying to learn a new set of purchasing regulations uses the instructional program to help learn the new regulations. The information presented to the employee is information that includes or is about the new regulations. The goal is to help the user learn the information. Massaro discloses nothing about this type of programming. Applicant's claim 1, second paragraph of its body, specifies "additional instructional options" which are related to the underlying information to be learned. Therefore, claim 1 provides different learning options to try to help the user learn the underlying information of the instructional program. An example in Applicant's specification is the two options of less sophisticated assistance or more sophisticated assistance. Depending on what the user feels they need at any moment, they can essentially select one, two, or no virtual tutors.

Massaro is about user interfaces for particular functions of an application program. It teaches or discloses nothing about presenting information to be learned and then options of additional "instructional information". Massaro only presents one user interface at a time to the user.

Third, the last paragraph of the body of Applicant's claim 1 specifies the at least "first and second levels of sophistication" of "additional instructional information" are "user selectable" and "at any time and in any order". This comports with the goal of the user of Applicant's claimed invention being able to invoke, at any time and in any order, different virtual tutors for a given piece of information they are learning. In an example in Applicant's specification, if the user wants a "professorial" virtual tutor, they select "tell me more or enhance". If the user wants a less sophisticated, perhaps plain-speaking virtual tutor, they select "huh or plain". See Applicant's Figure 2. The assistance by the selected virtual tutor is assistance in learning the subject matter of the instructional program at that given point. Massaro presents a single user interface that is pre-programmed to provide certain functions related to a certain function at that point in the application program. As mentioned before, the main focus of Massaro is that the user, before starting the application, pre-selects or pre-programs the single type of interface they want available to them for any particular function in the application program. That user interface would automatically be displayed or presented at any time the particular matching function is called for in the application. In contrast, Applicant's claim 1 presents multiple virtual tutor options for a single presented information to be learned. The content of the virtual tutors would be related to that information. It is linked to the specific information to be learned at that time, not to any function of an application program.

Therefore, it is respectfully submitted Massaro does not present a *prima facie* case of anticipation of Applicant's claim 1. Applicant's claims 2-4 and 7-10 are dependent from claim 1 and submitted to be allowable for the reasons expressed in support of claim 1. Claims 7-10 give specifics regarding possible attributes of the "virtual tutors" which are nowhere disclosed in Massaro.

In a similar fashion, Applicant's independent claim 11 differs from Massaro. It specifically relates to "providing instruction to a user of an instructional program". It specifically includes "additional instructional options" in "an instruction module". Those options are available in "no less than two levels of sophistication" and are "user selectable at any time and in any order". Therefore for the reasons expressed in support of claim 1, it is submitted Massaro does not present a *prima facie* case of anticipation of Applicant's independent claim 11.

Claim 14 is dependent on claim 11 and submitted to be allowable for the reasons expressed in support of claim 11.

Applicant's independent claim 16 includes similar differences from Massaro as claim 1. It relates to "an interactive learning system". It provides "additional information over and above the 'lesson' to be learned". It allows "no less than two levels of sophistication" which are "user-selectable" and "at any time and in any order". Therefore, for the reasons expressed in support of claim 1, it is submitted Massaro does not present a *prima facie* case of anticipation of Applicant's independent claim 16.

Claims 19, 24, 31, and 38 are dependent from one of independent claims 1, 11, or 16 and are submitted to be allowable for the reasons expressed in support of those independent claims. There is nothing seen in Massaro that describes "instruction, questions, or question feedback" relative its user interfaces.

It is respectfully submitted that Massaro does not disclose a way to help a user learn subject matter of an instructional program. In contrast, Massaro is focused on pre-determining what to display to the user as an application program is used to try -- to help the user handle the application more efficiently. Applicant's claims allow almost the reverse – information is presented in the instructional program for the user to learn. At the same time, at the user's timing and selection, the user has two virtual tutors available in the wings to call on with the information to help learn the information presented in the instructional program. The user may call on one or both tutors, or none. In contrast Massaro always has a user interface and tries to give a single interface that it will allow most efficient use of the application for a particular function.

Claim Rejections Under 35 U.S.C. § 103

Claims 5-6, 12-13, 15, 17, 18 and 20 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Massaro and Cook et al. ("Cook", U.S. Patent No. 5,727,950). This rejection is respectfully traversed.

Claims 5-6, 12-13, 15, 17, 18, and 20 are dependent from one of independent claims 1, 11 or 16. A *prima facie* case obviousness requires that the cited references suggest a combination of their teachings and, when combined, the teachings appear to show or suggest the claimed invention to one of ordinary skill in the art.

Each of the dependent claims under this rejection contains the limitations of their base independent claim. As described in the preceding discussion of the § 102 rejection, Massaro is missing critical limitations of Applicant's independent claims. Cook does not "fill the gaps", so to speak, of these missing limitations. Therefore it is respectfully submitted even if Massaro and

Cook were combined, a *prima facie* case of obviousness is not made out. The Office Action takes the position that Cook teaches that "voices, gestures, or motions" can be used in a tutoring system, and implies this fills the gap of missing in Massaro regarding using a first type of voice and a second type of voice. This is respectfully traversed.

Applicant respectfully requests reconsideration of the applicability of Cook as citable art against these claims. It is respectfully submitted the evidence of record establishes clearly that Applicant's claimed invention pre-dates Cook. Page 2 of the Office Action states Applicant's evidence of record antedates Cook regarding a majority of the claims, but does not do so for the claims under this obviousness rejection. The Office Action takes the position that the Applicant's evidence of record does not show sufficient conception of "different types of voices/characters prior to the effective date of Cook". Office Action page 2, numbered paragraph 3.

Applicant respectfully points to the evidence of record to the contrary. Exhibit B of record clearly shows at least two levels of sophistication, namely, "huh or plain" and "tell me more or enhance".

Exhibit D of record supplies a copyright registration that includes specific examples of the "huh or plain" language and the "tell me more or enhance" language that was in existence prior to the effective date of Cook.

Exhibits E and F supply actual demonstration CDs prior to the effective date of Cook. Paragraph 15 of the "Supplemental Declaration of Prior Invention ..." of August 7, 2006 specifically points out that audio files contain "huh" or "tell me more" narration on those demonstration CDs. Thus, the Examiner has in hand voice audio files of the two levels of sophistication "huh" and "tell me more" which are established to be prior to the effective date of Cook.

Therefore, it is respectfully submitted Cook is not citable against the claims under this rejection and that this is a second reason why a *prima facie* case of unpatentability of these claims is not made out by the combination of Massaro and Cook.

Claims 21-23, 25-30, 32-37 and 39-41 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Massaro. This rejection is respectfully traversed.

Each claim under this rejection is dependent from one of independent claims 1, 11 or 16. For the reasons set forth in the above discussion of the § 102 rejection, it is respectfully submitted Massaro is missing critical limitations of Applicant's independent claims. Therefore, the absence of such critical limitations in the teachings of Massaro precludes it from presenting a *prima facie* case of obviousness of either those claims or any of the dependent claims under this rejection.

Additionally, there is no teaching or suggestion in Massaro of varying the number of levels of user interfaces between functions of an application's program. In fact, Massaro explicitly states its purpose is to provide a multiple user interface for each function. Massaro links its different interface choices to each function in an application program. In contrast, Applicant's claims link the varying number of additional instructional options to various sections of the information to be learned in the instruction program. This is a still further difference between Applicant's claims and Massaro. Massaro presents the same number of potential user interfaces for each function. The claims under this rejection include the possibility of varying the number of additional instructional options from section-to-section of the instructional program.

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Conclusion

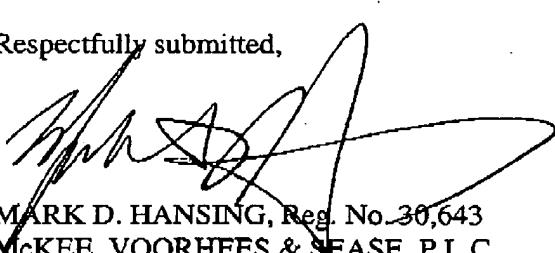
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It is respectfully submitted all matters raised in the Office Action have been addressed and remedied and that the application is in form for allowance.

This is a request under the provision of 37 CFR § 1.136(a) to extend the period for filing a response in the above-identified application for three months from February 14, 2008 to May 14, 2008. Applicant is a small entity; therefore, please charge Deposit Account number 26-0084 in the amount of \$525.00 to cover the cost of the three-month extension. Any deficiency or overpayment should be charged or credited to Deposit Account 26-0084. No other fees or extensions of time are believed to be due in connection with this amendment; however, consider this a request for any extension inadvertently omitted, and charge any additional fees to Deposit Account No. 26-0084.

Reconsideration and allowance is respectfully requested.

Respectfully submitted,



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